

## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1459-AGR-E TCEQ ID: RN102754892 CASE NO.: 34594  
 RESPONDENT NAME: JOCHUM SCHIEVINK DBA JOCHUM SCHIEVINK DAIRY

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> East side of County Road 285 approximately two miles south of the intersection of County Road 285 and Farm-to-Market Road 219, approximately ten miles southeast of Dublin, Erath County</p> <p><b>TYPE OF OPERATION:</b> Concentrated animal feeding operation</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility or location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Ms. Mary R. Risner, Litigation Division, MC 175, (512) 239-6224          Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p><b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Air Enforcement Section, MC 149, (512) 239-5363</p> <p><b>TCEQ Regional Contact:</b> Mr. Sid Slocum, DFW Regional Office, MC R-4, (254) 761-3007</p> <p><b>Respondent:</b> Mr. Jochum Schievink, 3066 County Road 285, Dublin, Texas 76446</p> <p><b>Respondent's Attorney:</b> Mr. Heath E. Allen, Law Office of Warren and Allen, Warren Building, 240 East Washington Street, Stephenville, Texas 76401</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> May 3, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 23, 2007</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed on March 20, 2008. The Respondent signed an Agreed Order on April 25, 2008.</p> <p><b>WQ:</b></p> <p>1. Failed to prevent the unauthorized discharge of agricultural wastewater from a CAFO [30 TEX. ADMIN. CODE § 321.31(a) and TEX. WATER CODE § 26.121(a)].</p> <p>2. Failed to orally notify the executive director and appropriate regional office within 24 hours of a discharge from a CAFO [30 TEX. ADMIN. CODE § 321.44(a) and General Permit No. TXG920211, Part IV B.5].</p> <p>3. Failed to timely sample and analyze an unauthorized discharge [30 TEX. ADMIN. CODE § 321.44(b) and General Permit No. TXG920211, Part III A.5(c)].</p>	<p><b>Total Assessed:</b> \$2,550</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$250/\$2,300</p> <p>The Respondent has paid \$250 of the administrative penalty. The remaining amount of \$2,300 of the administrative penalty shall be paid in 10 monthly payments of \$230 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Technical Requirements</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 15 days:</p> <p>a. Develop and implement procedures to ensure that discharges are reported; and</p> <p>b. Develop and implement procedures to ensure that sampling and analysis requirements are done.</p> <p>2. Within 30 days, dewater the retention control structure ("RCS") and restore the rainfall capacity of the RCS.</p> <p>3. Within 45 days, submit written certification of compliance with these Ordering Provisions.</p>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	28-Aug-2007	Screening	10-Sep-2007	EPA Due	
	PCW	17-Dec-2007				

## RESPONDENT/FACILITY INFORMATION

Respondent	Jochum Schievink dba Jochum Schievink Dairy		
Reg. Ent. Ref. No.	RN102754892		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	34594	No. of Violations	3
Docket No.	2007-1459-AGR-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	2% Enhancement	Subtotals 2, 3, & 7	\$50
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Notes

A 2% enhancement is recommended for having one NOV for non-similar violations.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The respondent does not meet the good faith criteria.

0% Enhancement\*

Subtotal 6

\$0

Total EB Amounts	\$82
Approx. Cost of Compliance	\$1,800

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

Final Subtotal

\$2,550

## OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment

\$0

Notes

Final Penalty Amount

\$2,550

## STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$2,550

## DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

0%

Reduction Adjustment

\$0

Notes

Deferral not offered for non-expedited settlement.

## PAYABLE PENALTY

\$2,550

Screening Date 10-Sep-2007

Docket No. 2007-1459-AGR-E

PCW

Respondent Jochum Schievink dba Jochum Schievink Dairy

Policy Revision 2 (September 2002)

Case ID No. 34594

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102754892

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

A 2% enhancement is recommended for having one NOV for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 2%

<b>Screening Date</b> 10-Sep-2007 <b>Respondent</b> Jochum Schievink dba Jochum Schievink Dairy <b>Case ID No.</b> 34594 <b>Reg. Ent. Reference No.</b> RN102754892 <b>Media [Statute]</b> Water Quality <b>Enf. Coordinator</b> Samuel Short <b>Violation Number</b> <input type="text" value="1"/>	<b>Docket No.</b> 2007-1459-AGR-E <b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision June 26, 2007</i>																		
<b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 321.31(a) and Tex. Water Code § 26.121(a)"/>																			
<b>Violation Description</b> <input ("rcs")="" 2007="" 3,="" a="" cafo").="" control="" discharge="" documented="" facility."="" from="" investigator="" may="" of="" on="" retention="" specifically,="" structure="" the="" type="text" value="Failed to prevent the unauthorized discharge of agriculture wastewater from a concentrated animal feeding operation (" wastewater=""/>																			
<b>Base Penalty</b> <input type="text" value="\$10,000"/>																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																			
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Release</th> <th colspan="3" style="text-align: center;">Harm</th> <th rowspan="3" style="vertical-align: bottom;">Percent <input type="text" value="10%"/></th> </tr> <tr> <th></th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table>	Release	Harm			Percent <input type="text" value="10%"/>		Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	x	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
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<b>&gt;&gt; Programmatic Matrix</b>																			
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Falsification</th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> <th rowspan="3" style="vertical-align: bottom;">Percent <input type="text" value="0%"/></th> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>					
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<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors."/>																			
<b>Adjustment</b> <input type="text" value="\$9,000"/>																			
<input type="text" value="\$1,000"/>																			
<b>Violation Events</b>																			
<table style="width: 100%;"> <tr> <td style="width: 40%;">Number of Violation Events <input type="text" value="1"/></td> <td style="width: 20%; text-align: center;"><input type="text" value="130"/></td> <td style="width: 40%;">Number of violation days</td> </tr> </table>		Number of Violation Events <input type="text" value="1"/>	<input type="text" value="130"/>	Number of violation days															
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mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x						
	daily	<input type="text"/>																	
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	semiannual	<input type="text"/>																	
	annual	<input type="text"/>																	
single event	x																		
<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>																			
<input type="text" value="One single event is recommended."/>																			
<b>Economic Benefit (EB) for this violation</b>																			
<b>Statutory Limit Test</b>																			
<b>Estimated EB Amount</b> <input type="text" value="\$52"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,020"/>																		
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,020"/>																			

## Economic Benefit Worksheet

Respondent Jochum Schievink dba Jochum Schievink Dairy

Case ID No. 34594

Reg. Ent. Reference No. RN102754892

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	3-May-2007	13-May-2008	1.0	\$52	n/a	\$52

Notes for DELAYED costs

The estimated cost to dewater the RCS and restore the rainfall capacity of the RCS. The date required is the date in which the unauthorized discharge occurred and the final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$52

Screening Date 10-Sep-2007

Docket No. 2007-1459-AGR-E

PCW

Respondent Jochum Schievink dba Jochum Schievink Dairy

Policy Revision 2 (September 2002)

Case ID No. 34594

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102754892

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 321.44(a) and General Permit No. TXG920211, Part IV B.5.

Violation Description

Failed to orally notify the executive director and appropriate regional office within 24 hours of a discharge from a CAFO. Specifically, on May 3, 2007 the investigator documented a discharge of wastewater at the Facility and no notification was received.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

130 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

## Economic Benefit Worksheet

**Respondent** Jochum Schievink dba Jochum Schievink Dairy  
**Case ID No.** 34594  
**Reg. Ent. Reference No.** RN102754892  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	4-May-2007	13-May-2008	1.0	\$5	n/a	\$5

Notes for DELAYED costs

The estimated cost to begin orally notifying the executive director and the appropriate regional office within 24 hours of a discharge from a CAFO. The date required is the date the notification was due and the final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5



Screening Date 10-Sep-2007

Docket No. 2007-1459-AGR-E

PCW

Respondent Jochum Schievink dba Jochum Schievink Dairy

Policy Revision 2 (September 2002)

Case ID No. 34594

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102754892

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 321.44(b) and General Permit No. TXG920211, Part III A.5.(c)

Violation Description

Failed to timely sample and analyze an unauthorized discharge. Specifically, samples were due to be taken within 30 minutes following the initial discharge that occurred on May 3, 2007 and samples were not taken until May 4, 2007.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed level that are protective of human health or environmental receptors.

Adjustment \$9,500

\$500

## Violation Events

Number of Violation Events 1

2 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$510

This violation Final Assessed Penalty (adjusted for limits) \$510

## Economic Benefit Worksheet

Respondent Jochum Schievink dba Jochum Schievink Dairy

Case ID No. 34594

Reg. Ent. Reference No. RN102754892

Media Water Quality

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$200	3-May-2007	4-May-2007	0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	3-May-2007	13-May-2008	1.0	\$26	n/a	\$26

Notes for DELAYED costs

The estimated cost to sample and analyze the unauthorized discharge that occurred on May 3, 2007. The date required is the date the discharge began and the final date is the date the sample was taken. The estimated cost to develop procedures to ensure that sampling and analysis of discharges takes place. The date required is the date the samples were due and the final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$700

TOTAL

\$26

# Compliance History

Customer/Respondent/Owner-Operator: CN600795579 SCHIEVINK, JOCHUM Classification: AVERAGE Rating: 0.43  
 Regulated Entity: RN102754892 JOCHUM SCHIEVINK DAIRY Classification: AVERAGE Site Rating: 0.43  
 ID Number(s): WASTEWATER AGRICULTURE PERMIT TXG920211  
 Location: LOCATED ON THE EAST SIDE OF COUNTY ROAD 285 Rating Date: September 01 07 Repeat Violator: NO  
 TWO MILES SOUTH OF THE INTERSECTION OF COUNTY ROAD 285 AND FARM-TO-MARKET ROAD 219, APPROXIMATELY TEN MILES SOUTHEAST OF DUBLIN IN ERATH COUNTY, TEXAS  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: September 05, 2007  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: September 05, 2002 to September 05, 2007  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Samuel Short Phone: (512) 239-5363

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
 N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
 N/A
- C. Chronic excessive emissions events.  
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 07/18/2003 | (143829) |
| 2 | 03/31/2004 | (267281) |
| 3 | 08/31/2004 | (260812) |
| 4 | 06/22/2005 | (396211) |
| 5 | 08/23/2007 | (573102) |
| 6 | 08/28/2007 | (571995) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |                          |
|--------------|---|--------------------------|
| Date:        | 08/28/2007  | (571995)                 |
| Self Report? | NO  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 321, SubChapter B 321.46(c)(1)   |                          |
| Description: | Failure to provide documentation of the liner documentation review and a site evaluation required every five years. |                          |
- F. Environmental audits.  
 N/A
- G. Type of environmental management systems (EMSs).  
 N/A
- H. Voluntary on-site compliance assessment dates.  
 N/A
- I. Participation in a voluntary pollution reduction program.  
 N/A
- J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING JOCHUM  
SCHIEVINK DBA JOCHUM  
SCHIEVINK DAIRY;  
RN102754892**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1459-AGR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jochum Schievink dba Jochum Schievink Dairy ("Mr. Schievink") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Schievink represented by Heath E. Allen of the law firm Law Office of Warren & Allen, appear before the Commission and together stipulate that:

1. Mr. Schievink owns and operates a concentrated animal feeding operation ("CAFO") located on the east side of County Road 285 approximately two miles south of the intersection of County Road 285 and Farm-to-Market Road 219, approximately ten miles southeast of Dublin, Erath County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
3. The Commission and Mr. Schievink agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Schievink is subject to the Commission's jurisdiction.
4. Mr. Schievink received notice of the violations alleged in Section II ("Allegations") on or about August 29, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Schievink of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand five hundred fifty dollars (\$2,550.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Schievink has paid two hundred fifty dollars (\$250.00) of the administrative penalty. The remaining amount of two thousand three hundred dollars (\$2,300.00) of the administrative penalty shall be payable in 10 monthly payments of two hundred thirty dollars (\$230.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Schievink fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Schievink to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Schievink to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Schievink have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Schievink has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

Mr. Schievink is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 321.31(a) and TEX. WATER CODE § 26.121(a) by failing to prevent the unauthorized discharge of agricultural wastewater from a CAFO. Specifically, the investigator documented a discharge of wastewater from a retention control structure ("RCS") on the Site as documented on May 3, 2007.
2. 30 TEX. ADMIN. CODE § 321.44(a) and General Permit No. TXG920211, Part IV B.5. by failing to orally notify the executive director and appropriate regional office within 24 hours of a discharge from a CAFO. Specifically, the investigator documented a discharge of wastewater at the Site and no notification was received as documented on May 3, 2007.
3. 30 TEX. ADMIN. CODE § 321.44(b) and General Permit No. TXG920211, Part III A.5.(c) by failing to timely sample and analyze an unauthorized discharge. Specifically, samples were due to be taken within 30 minutes following the initial discharge that occurred on May 3, 2007, as documented on that date, and samples were not taken until May 4, 2007.

## III. DENIALS

Mr. Schievink generally denies each allegation in Section II ("Allegations").

## IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Schievink pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Schievink's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Jochum Schievink dba Jochum Schievink Dairy, Docket No. 2007-1459-AGR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Schievink shall undertake the following technical requirements:
  - a. Within 15 days after the effective date of this Agreed Order Mr. Schievink shall develop and implement procedures to ensure that discharges are reported in accordance with 30 TEX. ADMIN. CODE § 321.44 and General Permit No. TXG920211;
  - b. Within 15 days after the effective date of this Agreed Order Mr. Schievink shall develop and implement procedures to ensure that sampling and analysis requirements are done in accordance with 30 TEX. ADMIN. CODE § 321.44 and General Permit No. TXG920211;
  - c. Within 30 days after the effective date of this Agreed Order Mr. Schievink shall de-water the RCS and restore the rainfall capacity of the RCS; and
  - d. Within 45 days after the effective date of this Agreed Order Mr. Schievink shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a., 2.b., and 2.c.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:



Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Sid Slocum, Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Schievink. Mr. Schievink is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Mr. Schievink fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Schievink's failure to comply is not a violation of this Agreed Order. Mr. Schievink shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Schievink shall notify the Executive Director within seven days after Mr. Schievink becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Schievink shall be made in writing to the Executive Director. Extensions are not effective until Mr. Schievink receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Schievink in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Schievink, or three days after the date on which the Commission mails notice of the Order to Mr. Schievink, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

6/25/08

\_\_\_\_\_  
Date

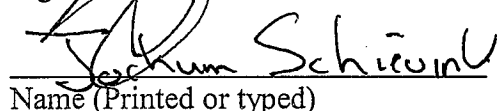
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
Signature

  
Name (Printed or typed)

Authorized representative of

Jochum Schievink dba Jochum Schievink Dairy

4-25-08

\_\_\_\_\_  
Date

owner  
Title